

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554**

In the Matter of	)	
	)	
Petition of AT&T Inc. for	)	CC Docket No. 95-116
Waiver of the Commission's Rules	)	
To Treat Certain Local Number	)	
Costs under Section 61.45(d)	)	

**REPLY COMMENTS OF  
THE OFFICE OF THE PEOPLE'S COUNSEL  
FOR THE DISTRICT OF COLUMBIA**

**I. Introduction**

Pursuant to the Federal Communications Commission ("Commission") Public Notice ("Notice") released on March 31, 2006,<sup>1</sup> the Office of the People's Counsel for the District of Columbia (OPC-DC) submits reply comments on Verizon Communications, Inc.'s ex parte comments and presentation submitted in support of AT&T's Petition for Waiver to Treat Certain Local Number Portability Costs as Exogenous Costs.<sup>2</sup>

Summary of OPC-DC's Position

Succinctly stated OPC-DC respectfully requests the Commission require Verizon and any other similarly situated incumbent local exchange carriers ("ILECs") to submit cost studies to justify their request for additional relief to recover local number portability costs.

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<sup>1</sup> FCC Public Notice, Comments Sought on AT&T Petition for Waiver to Treat Certain Local Number Portability Costs as Exogenous Costs, CC Docket No. 95-116, DA 06-778 (rel. Mar. 31, 2006). The FCC only gave interested parties five business days in which to file initial comments and two business day in which to file reply comments.

<sup>2</sup> Letters to Marlene H. Dortch, Secretary, Federal Communications Commission from Donna Epps, Vice President Federal Regulatory, Verizon, In re Petition of SBC Communications, Inc. for Forbearance and Waiver under 47 U.S.C. Section 160(c) for the Application of the Five-Year Recover Period for Local Number Portability Costs Under 47 C.F.R. Section 52.33(a)(1); CC Docket No. 95-116 (Apr. 3, 2006 and Jan. 26, 2006).

## **II. Background**

On March 31, 2006, AT&T, Inc. filed a petition on behalf of Ameritech Operating Companies, Pacific Bell, and Southwestern Bell Telephone Company requesting a waiver of section 61.45(d) of the Commission's rules to permit it to treat its unrecovered carrier-specific local number portability (LNP) costs as exogenous costs and to permit it to recover such costs from end users via the end user common line (EUCL) charge. On January 26, and April 3, 2006, respectively, Verizon filed an ex parte presentation in which it urged the Commission to grant AT&T's petition.<sup>3</sup> Second, in Verizon's meeting with Commission staff, the Company requested permission to assess two end user surcharges: a \$0.21 charge per access line for 10 months, and a second end user charge in the amount of \$0.17 per access line for 12 months.<sup>4</sup> Verizon's ex parte presentation does not specify the time period for when these charges would be assessed on the consumer, or if the charges will be assessed consequentially. Verizon claims these surcharges would recover approximately \$100 million in LNP shortfall due to declining chargeable access lines.<sup>5</sup> No cost studies were filed. The FCC gave interested parties one week in which to file initial comments. Reply comments are due on April 11, 2006. OPC-DC's reply comments are submitted herein.

## **III. Discussion**

OPC-DC submits the FCC gave ILECs ample opportunity to recover LNP costs over a five-year period. Verizon and AT&T have failed to demonstrate that they did not recover these costs during that period or that additional cost recovery is necessary. As a threshold issue, OPC-DC respectfully requests the FCC, at a minimum, require AT&T and Verizon to submit cost studies substantiating their request for additional cost recovery of LNP costs. As

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

noted by the New Jersey Ratepayer Advocate<sup>6</sup> and the California Public Utilities Commission<sup>7</sup>, AT&T (formerly SBC) and Verizon failed to support the relief requested. OPC-DC agrees with the New Jersey Ratepayer Advocate that AT&T and Verizon's failure to accurately forecast the decrease in access lines does amount to an extraordinary change warranting the need for exogenous treatment of LNP costs.<sup>8</sup>

Number portability allows residential and business telephone customers to retain, at the same location, their existing local telephone numbers when switching from one telephone service provider to another.<sup>9</sup> The Commission held carriers could only recover costs directly related to providing long-term LNP. Such costs include the costs associated with the creation of regional databases to support number portability and the initial upgrading the public switched telephone network, as well as ongoing costs of providing number portability, such as the costs involved in transferring a telephone number to another carrier and routing calls under the N minus one (N-1) querying protocol.<sup>10</sup> Carriers cannot recover costs not directly related to or as an incidental consequence to the provision of LNP.<sup>11</sup>

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<sup>6</sup> *In re Petition of AT&T Inc. for Waiver for the Commission's Rules to Treat Certain Local Number Portability Costs as Exogenous Costs under Section 61.45(d)*, CC Docket No. 95-116 and *In re Telephone Portability; Petition of SBC Communications, Inc. for Forbearance under 47 U.S.C. § 160(c) from the Application of the Five-Year Recovery Period for Local Number Portability Costs under 47 C.F.R. § 52.33 (a)(1)*; *Petition of SBC Communications, Inc. for a Waiver of the Five-Year Recovery Period for Local Number Portability Costs under 47 C.F.R. § 52.33(a)(1)*, Comments, Reply Comments and Ex Parte of the New Jersey Division of the Ratepayer Advocate (Apr. 10, 2006) (New Jersey Ratepayer Advocate).

<sup>7</sup> *In re Telephone Number Portability*, CC Docket No. 95-116; *Petition of SBC Communications, Inc. for Forbearance under 47 U.S.C. § 160(c) from the Application of the Five-Year Recovery Period for Local Number Portability Costs under 47 C.F.R. § 52.33 (a)(1)*; *Petition of AT&T Inc. for Waiver for the Commission's Rules to Treat Certain Local Number Portability Costs as Exogenous Costs under Section 61.45(d)*, CC Docket No. 95-116, Comments of the California Public Utilities Commission and the People of the State of California in Response to AT&T Petition for Waiver, at 3-4 (Apr. 7, 2006).

<sup>8</sup> New Jersey Ratepayer Advocate Comments, Reply Comments and Ex Parte, at 4.

<sup>9</sup> *In re Telephone Number Portability BellSouth Corporation Petition for Declaratory Ruling and/or Waiver*, CC Docket No. 95-116, FCC No. 04-91, ¶ 2 (rel. Apr. 13, 2004).

<sup>10</sup> *In re Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8399-8400, ¶¶ 91-2 (1996) (*First Report and Order*).

<sup>11</sup> *In re Telephone Number Portability*, Third Report and Order, 13 FCC Rcd 11701, 11740, ¶ 72 (1998) (*Third Report and Order*).

The Commission permitted ILECs to recover LNP costs via a federally tariffed end user surcharge over a five-year period beginning on February 1, 1999.<sup>12</sup> The FCC concluded a five-year recovery period to assess an end-user charge was reasonable because it will enable incumbent LECs to recover their portability costs in a timely fashion and avoid imposing those charges for an unduly long period. Any longer period would increase the total charges consumers would have to pay.<sup>13</sup> In response to BellSouth's Petition filed in November 2003, the FCC permitted BellSouth and other ILECs to assess another end user surcharge to recover intermodal LNP costs in accordance with section 251(e)(2) of the Telecommunications Act of 1996. Verizon Washington DC, Inc. assessed end users a LNP surcharge for a five-year period beginning in February 1999 to February 2004. In 2004, AT&T (formerly SBC) filed comments in response to BellSouth's petition urging the Commission to require a cost study from each carrier that seeks additional recovery.<sup>14</sup> In the same vein, OPC-DC requests the Commission require that AT&T and Verizon submit a cost study to substantiate their request for additional recovery. As the Commission stated in prior orders, carriers seeking additional recovery must file cost support with their tariff revisions in accordance with Commission rules.<sup>15</sup> Additional recovery requests must meet the same strict standards the Commission applied to evaluate the original costs of implementing LNP.<sup>16</sup>

Granting ILECs yet another opportunity to assess an LNP surcharge does not advance the FCC's concern that carriers should not impose such charges over an unduly long period.<sup>17</sup> The FCC clarified that after the five-year period for recovering initial LNP costs through the

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<sup>12</sup> The FCC concluded section 251(c)(2) addresses both interstate and intrastate matters and overrides section 2(b) reservation of authority to the states over intrastate matters, *In re Telephone Number Portability*, CC Docket No. 95-116, Third Report and Order, ¶ 28 (May 5, 1998) (Third Report and Order).

<sup>13</sup> *Supra* n.8, ¶ 144.

<sup>14</sup> *Supra* n.6, ¶ 8, citing n. 39.

<sup>15</sup> *Id.*, ¶ 10.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*, ¶ 17.

end-user charge, any remaining costs will be treated as normal network costs.<sup>18</sup> No carriers have demonstrated that LNP surcharges imposed in the past were unreasonable based upon the information they had available to them at the time as required by the FCC.<sup>19</sup>

The FCC recognized consumers' sensitivity to end-user charges because it anticipated number portability would bring about increased choice and lower prices from a competitive market, far outweighing initial LNP costs.<sup>20</sup> These anticipated benefits have not come to pass in the District of Columbia. In Washington DC, residential consumers continue to have little choice in local phone service. No cable service provider has begun to offer telephony services. Broadband-based services are not ubiquitously available in the District of Columbia. Wireless providers lock consumers into long-term contracts restricting residents' ability to switch service providers when they experience poor quality of service. The benefits the FCC anticipated have not been fully realized in DC. As such, Verizon's request to impose additional surcharges on District of Columbia residential consumers should be justified and supported by cost data.

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<sup>18</sup> *In re Telephone Number Portability*, Memorandum Opinion and Order on Reconsideration and Order on Application for Review, 17 FCC Red 2578, CC Docket No. 95-116, ¶ 87 (Jan. 23, 2002).

<sup>19</sup> *Supra* n.12.

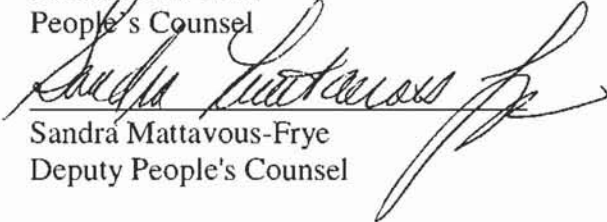
<sup>20</sup> *Supra* n.8, ¶ 135.

#### IV. Conclusion

OPC-DC respectfully requests the Commission to consider and incorporate its reply comments and recommendations in reviewing AT&T's Petition for Waiver to Treat Certain Local Number Portability Costs as Exogenous Costs and Verizon's request for additional local number portability cost recovery discussed in its ex parte filing.

Respectfully submitted,

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April 11, 2006

Ms. Marlene Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington DC 20005

**Re:** In the Matter of Petition of AT&T Inc. Waiver of the Commission's Rules To Treat  
Certain Local Number Costs under Section 61.45(d) CC Docket No. 95-116

Dear Ms. Dortch:

Please find attached Reply Comments of the Office of the People's Counsel for the District of Columbia filed in the above-referenced proceeding. Should you have any questions, please contact the undersigned at 202-727-3071.

Thank you,

Joy M. Ragsdale

## CERTIFICATE OF SERVICE

### CC Docket No. 95-116

I, hereby certify that on this 11<sup>th</sup> day of April 2006, copies of the "Reply Comments of the Office of the People's Counsel for the District of Columbia" were served by electronic mail (\*) or facsimile on the following individuals:

Davida M. Grant, Counsel  
AT&T Inc.  
1401 I Street NW  
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A handwritten signature in cursive script, reading "Joy M. Ragsdale", is written over a horizontal line.

Joy M. Ragsdale  
Assistant People's Counsel